

June 6, 2002

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President Paul Kjellander
Commissioner Dennis Hansen
Commissioner Marsha Smith
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702-5983

Re: CASE NO. USW-T-00-3

Dear President and Commissioners:

Qwest Corporation ("Qwest") submits this response to the June 5, 2002 letter of AT&T objecting to rates set out in Exhibit A to Qwest's revised Statement of Generally Available Terms ("SGAT") filed May 24, 2002. As discussed below, AT&T's objections are without merit because the rate revisions to which AT&T objects provide substantial and immediate *reductions* in the rates that CLECs would otherwise have to pay for unbundled network elements ("UNEs") and local interconnection service elements ("LIS"). It is therefore not surprising that no CLEC that actually buys or intends to buy UNEs has objected to this filing. By opposing those reductions, AT&T confirms that it has no particular interest in the development of local competition, and every interest in trying to delay the date on which consumers will begin to enjoy the benefits of greater competition in the long-distance market.

On May 24, 2002, Qwest filed an updated SGAT pursuant to 47 U.S.C. § 252(f), and attached an Exhibit A price list. Qwest reduced the rates for certain key rate elements in Idaho, including those in the UNE platform. In fact, *all* the rates for UNEs and LIS elements set out in Exhibit A are less than or equal to the current rates.¹ Qwest requested the Commission to allow the SGAT with the lowered rates to become effective June 7, 2002. If Qwest had not sought a prompt effective date for these rate revisions, CLECs would continue paying the higher current rates, and there is no respect in which either they or the general public would have been better off.

¹ There was a three cent increase to "innerduct occupancy fee, per foot per year," section 10.8.11, which is not a UNE or LIS element. The change was based on agreement with Idaho Staff.

AT&T's vague assertion that Qwest's compliance filing increases UNE prices for CLECs operating in Idaho is unsupported, meritless, and an attempt to block the effectiveness of price reductions that are in the best interest of CLECs who, in contrast to AT&T, actually compete in the market for local service. (AT&T 6/5/02 LTR at 2-3.)

Contrary to AT&T's suggestion that "there are many additional, new rate elements" in the SGAT filing (AT&T 6/5/02 LTR at 2-3), Qwest's filing either reduces rates that are now in effect or establishes rates for elements—which no one has ordered—for which no rates had previously been in effect. For example, Qwest simply included rates for a category of little-used new or existing rates for which no rates had been set before (even though the rate elements at issue indisputably impose costs).² Qwest also included a rate for an "additional connector" in section 8.1.9. As the Commission is aware, such administrative changes are unexceptional. Moreover, new rate elements constantly arise in the telecommunications industry as CLECs request, and ILECs devise, new products in the course of doing business with each other. The alternative to updating SGATs to take that fact into account is to deprive CLECs of the opportunity to purchase new wholesale offerings. The May 24 SGAT filing reflects, with respect to the minor rate elements at issue, the need for such responsiveness to evolving CLEC needs.

Moreover, AT&T's observation that the newly filed rates "have not been approved by the Commission" (AT&T 6/5/02 LTR at 2) provides no basis for declining to allow them to take effect as soon as possible. If an ILEC avails itself of its federal right to file an SGAT as a means of complying with its obligations under section 251, a State commission must act promptly in deciding whether to "permit such statement to take effect." 47 U.S.C. § 252(f)(3)(B). The Commission may do so without conducting any proceeding or making any finding. As Congress made clear, however, meeting that federal statutory obligation does not "preclude the State commission from *continuing to review* a statement that has been permitted to take effect." 47 U.S.C. § 252(f)(4) (emphasis added). Qwest thus encourages the Commission to acknowledge that the rates in Exhibit A of the SGAT are effective on June 7, 2002. The Commission would then remain free to decide, after the effective date, what, if any, further proceedings it should conduct to review the rates at issue. In the interim, the rates, as reflected in the SGAT, can become effective pursuant to 47 U.S.C. § 252(f)(3)(B) without prejudicing any party's right to challenge them.

The precise issues presented herein were addressed in an order entered yesterday by the Nebraska Public Service Commission, a copy of which is attached hereto as Exhibit A.³ In Nebraska, Qwest filed a revised SGAT on May 24, introducing proposed lower rates for several UNEs and LIS elements and including rates for some new UNEs developed after the most recent cost docket in that state. With regard to the lowered rates, the Nebraska Commission could "see no reason why the Commission cannot acknowledge that these rates are effective on June 7, 2002," subject to a procedure

² See May 24, 2002, SGAT Ex. A at 8.1.9 ("OCN Terminations per 12 Fibers," and "Cable Racking for OCN Terminations 1st 12 fibers"). The December 10, 2001 Exhibit A showed these categories as "Under Development." Qwest also added various little-used direct inward dial non-recurring charges in section 9.23.3.

³ *In the Matter of the Commission, on its Own Motion, to Investigate Cost Studies to Establish Qwest Corporation's Rates for Interconnection, Unbundled Network Elements, Transport and Terminations, and Resale*, Order, App. No. C-2516/PI-49 (June 5, 2002).

that allows parties to comment on them.⁴ The Commission concluded that the new rates “are all less than, or equal to, the Commission approved rates from the cost docket.”⁵ Thus, “[t]he lower rates create no apparent harm and may actually provide a benefit to Qwest’s wholesale customers through the opportunity to have lower rates.”⁶ With regard to completely new rates, the Commission found that new UNEs and LIS elements continue to be developed, that “it is impossible to set rates for all UNEs and LIS elements in one cost docket,” and “that it would benefit CLECs to have rates available and effective for these new UNEs and LIS elements, even if the Commission has not yet had the opportunity to approve or disapprove these rates.”⁷ The Nebraska Commission thus approved the rates effective June 7, 2002.

The situation in Idaho is the same. The rates Qwest proposes to lower can only benefit the CLECs who actually purchase network elements and there is an open cost docket in which parties can raise issues about UNE prices. There is simply no reason the proposed rates should not become effective on June 7.

Wherefore, Qwest respectfully requests that the Commission permit the rates set forth in the May 24 SGAT filing to take effect on June 7, 2002.

Sincerely yours,

Curtis D. McKenzie

Attachment

⁴ *Id.* at 2.

⁵ *Id.*

⁶ *Id.* at 3.

⁷ *Id.*